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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,414	04/16/2004	Dong-Hoon Lee	0630-1975P	9364
2292	7590	02/28/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			DUDEK, JAMES A	
PO BOX 747			ART UNIT	
FALLS CHURCH, VA 22040-0747			PAPER NUMBER	
			2871	

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/825,414

Applicant(s)

LEE ET AL.

Examiner

James A. Dudek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 10-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,26 and 27 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 7-9, 28-29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 6 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,793,457 (457).

Per claims 1 and 6, 457 teaches a fabrication method for a color filter panel of a display device, comprising: forming a black matrix layer having a first opening on a substrate [opaque layer 3 and first step of methods 1-4]; forming an organic layer on the color filter layer and in the first opening [see column 10, line 41-42]; and forming a spacer by back-exposing the organic layer through the first opening [see column 10, line 49-52, mask “with light-shielding sections...”]. 457 lacks the step of forming a color filter layer on the substrate. However, it was notoriously well known to form color filter between black masks in order to create a color display. Accordingly it would have been obvious to one of ordinary skill at the time of invention to combine the well known color filter with 457.

Claims 1, 4 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent US005880803A (803).

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Per claim 1, 803 teaches a fabrication method for a color filter panel of a display device, comprising: forming a black matrix layer having a first opening on a substrate [opaque layer 3a and see columns 4-5]; forming an organic layer on the color filter layer and in the first opening [see column 5, second full paragraph]; and forming a spacer by back-exposing the organic layer through the first opening [see column 5, second full paragraph]. 803 lacks the step of forming a color filter layer on the substrate. However, it was notoriously well known to form color filter between black masks in order to create a color display. Accordingly it would have been obvious to one of ordinary skill at the time of invention to combine the well known color filter with 803.

Per claim 4, 803 teaches the method of claim 1, further comprising: forming an overcoat layer on the color filter layer; and forming an alignment layer on the spacer [see insulation layer 4a and alignment layer 5a].

Claims 1, 5 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 20050099580A1 (580) in view of US Patent US005880803A (803).

580 teaches a fabrication method for a color filter panel of a display device, comprising: forming a black matrix layer having a first opening on a substrate [42]; forming a color filter layer on the substrate [see 43]; forming an organic layer on the color filter layer and in the first opening [57]; and forming a common electrode on the color filter layer [45]. 580 lacks the step of forming an alignment layer on the spacer and forming a spacer by back-exposing the organic layer through the first opening. However, 803 teaches forming an alignment layer on the the spacer and forming a spacer by back-exposing the organic layer through the first opening in order to improve spacer position accuracy and manufacturing improvements [see abstract]. Accordingly it would have been obvious to one of ordinary skill at the time of invention to combine 803 with 580.

Response to Arguments

Applicant's arguments filed 12/19/05 have been fully considered but they are not persuasive.

Applicant's election with traverse of the restriction in the reply filed on 9/2/05 is acknowledged. The traversal is on the ground(s) that the examiner has not met the burden required by the MPEP. This is not found persuasive because according to the MPEP, the Examiner has met the burdens required. See MPEP 806.05 (f).

A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make **>another materially different product<; or (B) that the product as claimed can be made by another * materially different process. Allegations of different processes or products need not be documented. A product defined by the process by which it can be made is still a product claim (In re Bridgeford, 357 F.2d 679, 149 USPQ 55 (CCPA 1966)) and can be restricted from the process if the examiner can demonstrate that the product as claimed can be made by another materially different process; defining the product in terms of a process by which it is made is nothing more than a permissible technique that applicant may use to define the invention.

In the restriction, the Examiner has shown that the product can be made by a materially different process. According to the MPEP, the restriction is proper.

This restrict has not been and is not withdrawn. The requirement is still deemed proper and is therefore made FINAL.

Regarding applicant's argument that Tamai's shielding film is not a black matrix layer for improving contrast. Examiner respectfully disagrees with applicant's assertion that the claims require an improvement in contrast. Applicant's claimed invention is not limited to improvements to contrast. Furthermore, the shielding layer does improve contrast. The examiner is not required to provide evidence that a black matrix is required, the reference has a black matrix.

Regarding the failure of Tamai to teach a color filter, Applicant has failed to assert that the color filter was not well known. Accordingly, the applicant has not properly responded to well known assertion.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

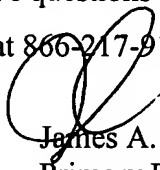
Allowable Subject Matter

Claims 2-3, 7-9 and 28-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Dudek whose telephone number is 571-272-2290. The examiner can normally be reached on 9:00-5:30.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James A. Dudek
Primary Examiner
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